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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,511	04/01/2004	Huw Edward Oliver	300203615-4	1299

22879 7590 10/27/2008

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EXAMINER	
CHERY, DADY	

ART UNIT	PAPER NUMBER
2416	

NOTIFICATION DATE	DELIVERY MODE
10/27/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/815,511	OLIVER ET AL.	
	Examiner	Art Unit	
	DADY CHERY	2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06/12/2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4 and 11-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-4 and 11-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

In view of the Appeal Brief filed on 08/04/2008, PROSECUTION IS HEREBY REOPENED. The new grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Ricky Ngo/

Supervisory Patent Examiner, Art Unit 2416

Claims 1- 26 have been examined.

Response to Amendment

This communication is responsive to the amendment filed on 06/12/2008.

The previous office action is withdrawn. However, the following action is final necessitated by the previous amendment files on 06/12/2008. Therefore, the shortened statutory period for reply to this final office action is set to expire three months from the mailing date of this action.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 - 4 ,11-16 and 18 -22 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4, 11- 16,18,19 and 20 -22 of copending Application No. 10/815512.

This is a provisional obviousness-type double patenting rejection.

Claim 1 of the instant application is substantially the same as claim 1 of the copending application.

Claim 2 of the instant application is substantially the same as claim 2 of the copending application.

Claim 3 of the instant application is substantially the same as claim 3 of the copending application.

Claim 4 of the instant application is substantially the same as claim 4 of the copending application.

Claim 11 of the instant application is substantially the same as claim 11 of the copending application.

Claim 12 of the instant application is substantially the same as claim 12 of the copending application.

Claim 13 of the instant application is substantially the same as claim 13 of the copending application.

Claim 14 of the instant application is substantially the same as claim 14 of the copending application.

Claim 15 of the instant application is substantially the same as claim 15 of the copending application.

Claim 16 of the instant application is substantially the same as claim 16 of the copending application.

Claim 19 of the instant application is substantially the same as claim 17 of the copending application.

Claim 20 of the instant application is substantially the same as claim 11 of the copending application.

Claim 21 of the instant application is substantially the same as claim 18 of the copending application.

Claim 22 of the instant application is substantially the same as claim 19 of the copending application.

Claims 23 and 25 of the instant application is substantially the same as claim 21 of the copending application.

Claims 24 and 26 of the instant application is substantially the same as claim 22 of the copending application.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claimed invention differs from the copending application by discloses a spoke-to-hub tunnels and a plurality of spoke-to-spoke tunnels.

10/815512 differs from the instant invention by not clearly discloses the limitation operating a process, in cooperation with a computer entity of said peer to peer network, for managing said second computer entity.

However, Shen teaches the peer devices or nodes collaborate to manage each other **(page 2, paragraph 2, lines 4-12).**

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the technique of Shen that teaches nodes collaborate to manage each other into the peer-to-peer network of Pabla in order to be able to make intelligent decisions based on network situations and conserve bandwidth.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1- 3 and 11- 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pabla et al. (US Patent 7,127,613, hereinafter Pabla) in view of Shen (Adaptive Autonomous Management of Ad hoc Network 2002 IEEE).

Regarding claim 1, Pabla discloses a method performed by a first computer entity **(Figs. 1A and 1B):**

operating a peer to peer protocol for enabling said first computer entity to utilize a resource of a second computer entity of in a peer to peer network, and for enabling said second computer entity to utilize a resource of said first computer entity in said peer to peer network **(col. 13, lines 17-23; col. 19, lines 32-39; col. 20, lines 33-43 etc..);**, wherein said process utilizes said resource of said first computer entity takes part in said peer to peer network using said peer to peer protocol **(Fig. 13; col. 18, lines 17-32 in combination with col. 20, lines 44-63 and lines 33-43)**, illustrates by means a vote, automatically, a peer represents to manage the other computers. Also each of the peers has its own content management services 222 to manage and facilitate content sharing using the peer group sharing protocol **(col. 21, lines 13-16).**

Pabla does not explicitly teach operating a process, in cooperation with a computer entity of said peer to peer network, for managing said second computer entity.

However, Shen teaches the peer devices or nodes collaborate to manage each other **(page 2, paragraph 2, lines 4-12).**

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the technique of Shen that teaches nodes collaborate to manage each other into the peer-to-peer network of Pabla in order to be able to make intelligent decisions based on network situations and conserve bandwidth.

Regarding claim 2, Pabla discloses said process comprises: determining a policy by which said first computer entity will interact with said second computer entity (col. 13, lines 9- 12, 51-66; col. 21, lines 56-57).

Regarding claim 3, Pabla discloses said process comprises: adopting a policy towards said second computer entity (col. 13, lines 55-57), wherein said policy is selected from a set of pre-determined polices for determining a relationship between said first computer entity and said computer entity (col. 17, lines 44-63; col. 18, lines 17-18; col. 19, lines 15-20; col. 20, lines 39- 43; col. 23, lines 59-col. 24, line 2 ... etc.).

Regarding claims 11, and 16 -17, the claims include features corresponding to subject matter mentioned above to the rejected claim 1, and is applied hereto. Regarding claim 12, Pabla discloses said network management component is activated whenever said peer to peer networking component is operational (col. 17, lines 54-63; col. 18, lines 60-67; col. 23, lines 24-31).

Regarding claim 13, Pabla discloses said network management component comprises a program data that controls resources of said peer to peer network to perform a network management service (col. 14, lines 44-57; c01.12, lines 55-67; col. 15, lines 58-60; col. 22, lines 56-59; col. 17, lines 29-31 in combination with lines 39-44 and col. 19, lines 32-39).

Regarding claim 14, Pabla discloses said network management component applies policy for determining a mode of operation of said first computer entity in relation to said second computer entity (col. 13, lines 9-12; 51-66; col. 17, lines 29-31).

Regarding claim 15, Pabla discloses said network management component operates to: communicate with a plurality of other computer entities of said network for sending and receiving policy data concerning an .operational policy towards said second computer entity (Figs. 1B and 10; col. 15, lines 50-57; col. 13, lines 51-57; col. 16, lines 61-62; col. 17, lines 29- 34 in combination with col. 54-56) and determine, from a consideration of policy data received from said other computer entities, a global policy to be adopted by each computer entity in said network, towards said computer entity (col. 13, lines 55-57;.col. 18, lines 26-39).

Regarding claim 16, the claim includes the features corresponding to subject matter mentioned above to the rejected claim 1, and is applicable hereto.

Regarding claim 18, Pabla discloses the computer entity automatically operates said process for managing at least one other computer entity, in response to receipt of a service request from at least one of said plurality of computer entities, not including said computer entity itself (Col. 1, lines 32 –34, Fig. 13 , Col. 18, lines 17 –32, Col. 20, lines 44 – 63 and Col. 21, lines 13 –16).

Regarding claim 19, Pabla discloses a method for controlling a computer entity to participate in a peer to peer network of a plurality of computer entities **(Fig. 6 and Col. 13, lines 6 –13)**, said method comprising:

operating a peer to peer protocol for enabling said computer entity to utilize resources of at least one other said computer entity of said network, and for enabling at

least one other said computer entity of said network to utilize resources of said computer entity **(Col. 13, lines 17 –25 and Col. 19, lines 32 –40).**

operating said process for managing at least one other computer entity, in response to receipt of a service request from a third computer entity in said peer to peer network **(Fig. 13, Col. 20, lines 44 – Col. 21, lines 16).**

Pabla does not explicitly teach operating a process, in cooperation with a third computer entity of said peer to peer network, for managing said second computer entity.

However, Shen teaches the peer devices or nodes collaborate to manage each other **(page 2, paragraph 2, lines 4-12).**

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the technique of Shen that teaches nodes collaborate to manage each other into the peer-to-peer network of Pabla in order to be able to make intelligent decisions based on network situations and conserve bandwidth.

Regarding claim 20, Pabla discloses a computer entity (Fig. 1B, 104) comprising:

a peer to peer networking component for allowing said computer entity to engage other computer entities on a peer to peer basis **(Col. 12, lines 36 –67, Col. 20, lines 33 – 43, Col. 25, lines 44 –52).**

a network management component for enabling a said computer entity to participate in management of a peer to peer network **(Fig. 13, Col. 20, lines 58 –63)**

the network management component is configured to operate a process for managing a second computer entity in said network in response to receipt of a service request from a third computer entity in said peer to peer network**(Fig. 13, Col. 21, lines 13- 16and Col. 19, lines 32 –39).**

Pabla does not explicitly teach operating a process, in cooperation with a third computer entity of said peer to peer network, for managing said second computer entity.

However, Shen teaches the peer devices or nodes collaborate to manage each other **(page 2, paragraph 2, lines 4-12).**

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the technique of Shen that teaches nodes collaborate to manage each other into the peer-to-peer network of Pabla in order to be able to make intelligent decisions based on network situations and conserve bandwidth.

Regarding claims 21-26, Pabla discloses considering whether said second computer entity allows said first computer entity to utilise said resource of said second computer entity (see fig. 7; col. 10, lines 29-66, illustrates the first peer requests or desires to establish a peer to peer secured session to communicate and/or exchange data with the second peer).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over Pabla in view of Gleichauf, and further in view of Golle (Incentives for

Sharing in Peer-to-Peer Networks, 2001, Computer Science Department, Stanford University).

9. Regarding claim 4, Pabla discloses managing said second computer entity (Fig. 13; col. 18, lines 17-32 in combination with col. 20, lines 44-63 and lines 33-43; co. 21, lines 13-16) comprises a process selected from the group consisting of: controlling access by said second computer entity to a communal resource stored on said first computer entity **(col. 13, lines 9-14; col. 19, line 66-col. 20, line 2; col. 15, lines 42-44; col. 18, lines 55-59);**

Pabla doesn't explicitly disclose placing said second computer entity in quarantine; or applying a charge for utilization by said second computer entity of a communal resource.

Gleichauf teaches placing said second computer entity in quarantine **(col. 3, line 63-col. 4, line 11; col. 2, lines 5-10)**. However, Gleichauf doesn't teach applying a charge for utilization by said at least one other computer entity of a communal resource.

Golle teaches applying a charge for utilization by said second computer entity of a communal resource **(page 5, lines 36-38, page 1, lines 25-34).**

Therefore, it would have been obvious to one ordinary Skill in the art at the time the invention was made to use the method of placing an infected computer in quarantine and charging a peer or user for using a resource as taught by Gleichauf and Golle, respectively into the peer-to-peer network of Pabla in order to prevent those hackers, which could cause damage, from penetrating a network undetected, and to increase the

system's value to its users and so make it more competitive with other commercial P2P systems.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DADY CHERY whose telephone number is (571)270-1207. The examiner can normally be reached on Monday - Thursday 8 am - 4 pm ESt.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ricky Ngo/
Supervisory Patent Examiner, Art Unit 2616

/Dady Chery/
Examiner, Art Unit 2416

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